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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,116	09/29/2003	Peter J. Dronzek JR.	181-030B	2428
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HEDMAN & COSTIGAN P.C. 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036			EXAMINER GOFF II, JOHN L	
			ART UNIT 1733	PAPER NUMBER
			MAIL DATE 09/20/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/674,116

**Applicant(s)**

DRONZEK, PETER J.

**Examiner**

John L. Goff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 25-36 and 38-50 is/are pending in the application.
- 4a) Of the above claim(s) 48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 25-36, 38-47, 49 and 50 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to the amendment filed on 7/10/07.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Objections***

3. Claims 33, 46, and 49 are objected to because of the following informalities: In claim 33, line 3 delete "6mils" and insert therein - - 6 mils - -. In claim 46, line 2 delete "454" and insert therein - - 45 - -. In claim 49, line 6 delete "0.9and" and insert therein - - 0.9 and - -.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 103***

4. Claims 25-27, 30-36, 38, 45-47, 49, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 1569879 (See also the abstract) in view of Ito et al. (U.S. Patent 5,422,175) and the admitted prior art (Specification page 4, lines 21-25).

DE 1569879 discloses a method of labeling a glass, wood, plastic, etc. container through a method comprising selecting a label such as a coated paper label, applying a hydrophilic coating to the label, applying a water based polymer adhesive to the hydrophilic coating thereby forming a fastenable label, fastening the label to the container, and allowing the label to dry on the container (See the abstract). DE 1569789 is silent as to the label comprising a microvoided polymeric label. Ito et al. disclose a microvoided polymeric label considered a coated paper

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label comprising an inner microvoided polymeric base and an outer layer easily written on, the label having a high definition for printing, high durability, appearance of high quality, etc. (Column 1, lines 6-10 and Column 2, lines 18-28 and Column 3, lines 18-20 and Column 12, lines 7-10 and 23-29). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use as the label in the method taught by DE 1569789 the microvoided polymeric label taught by Ito et al. having a high definition for printing, high durability, appearance of high quality, etc.

Regarding the limitation that the label is a patch label, DE 1569789 as modified by Ito et al. are silent as to the particular type of label used. However, it is considered well taken in the art of labeling that there are two types of labels which include wrap labels which provided a 360 degree wrap around the container and patch labels with less than 360 degree wrap as shown for example by the admitted prior art (Page 4, lines 21-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use as the label taught by DE 1569789 as modified by Ito et al. either of those well known to one of ordinary skill in the art such as a wrap label or a patch label as evidenced by the admitted prior art depending on the amount of information conveyed by the label, the decorative effect of the label, etc.

Regarding the limitation that the label will allow the water based adhesive to migrate into the label, the microvoided label taught by DE 1569789 as modified by Ito et al. includes an inner microvoided base including surface microvoids (Column 2, lines 37-42) coated with the water based adhesive wherein the microvoided base including surface microvoids is considered to allow the water based adhesive to migrate into the microvoided label.

Regarding claim 32, the hydrophilic coating applied to the label as taught by DE 1569789 is considered applied with 100% coverage (See the Figures).

Regarding claim 33, DE 1569789 does not specifically teach the thickness of the water based adhesive. Absent any unexpected results, it would have been obvious to one of ordinary skill in the art at the time the invention was made to experimentally determine the thickness of the water based adhesive required in DE 1569789 as modified by Ito et al. and the admitted prior art to achieve a good bond between the label and the container as doing so would have required nothing more than ordinary skill and routine experimentation.

Regarding claim 34, Ito et al. teach the polymeric label is a co-extruded film including polyester and coloring agent (Column 5, lines 13-17 and Column 9, lines 17-20).

Regarding claim 35, Ito et al. teach the layer easily written on that is laminated to the base considered a low density polymeric label surface may included printed indicia, e.g. a bar code, wherein it is considered obvious to one of ordinary skill in the art at the time the invention was made to use as the printed indicia on the layer easily written on taught by DE 1569789 as modified by Ito et al. and the admitted prior art any decorative indicia including reverse printed indicia as only the expected results would be achieved.

Regarding claims 36 and 38, Ito et al. teach the polymeric label includes an outer layer easily written on that is roughened which is considered an adhesion promoting layer to promote indicia adhesion (Column 12, lines 7-10). Further, Ito et al. teach optionally including an inner layer of the same type which is considered a tie layer to the hydrophilic layer (Column 3, lines 15-18). It being further noted tie layers and primer are considered well known in the art for adhesion promoting such that it would have been obvious to one of ordinary skill in the art at the

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time the invention was made to include on either surface of the label base taught by DE 1569789 as modified by Ito et al. and the admitted prior art a well known adhesion promoting tie layer or primer.

Regarding claims 45 and 46, DE 1569789 teach the hydrophilic layer is a derivative of polyacrylic acid wherein absent any unexpected results it would have been obvious to one of ordinary skill in the art at the time the invention was made to use an of the well known derivatives of polyacrylic acid such as carboxylated sodium polyacrylate.

Regarding claim 47, Ito et al. teach the microvoided polymeric base includes polyolefin-type resins wherein polypropylene is specifically noted in the background of Ito et al. (Column 1, lines 62-66 and Column 3, lines 65-66). It would have been obvious to one of ordinary skill in the art the time the invention was made to use as the polyolefin component of the microvoided polymeric base taught by DE 1569789 as modified by Ito et al. and the admitted prior art any of the particular polyolefins suggested such as polypropylene as only the expected results would be achieved.

Regarding claims 49 and 50, Ito et al. specifically suggest the label has a density, i.e. specific gravity, less than 0.9 (See Example 1).

5. Claims 28, 29, 43, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 1569789, Ito et al., and the admitted prior art as applied to claims 25-27, 30-36, 38, 45-47, 49, and 50 above, and further in view of Jannusch (U.S. Patent 4,440,884).

Regarding claims 28, 29, and 44, DE 1569789, Ito et al., and the admitted prior art as applied above teach all of the limitations in claims 28, 29, and 44 except for a specific teaching of the water based adhesive, which is considered coated/added to the hydrophilic layer, as

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including a catalyst, it being noted DE 1569789 is not limited to any particular water based adhesive. Jannusch disclose a water based adhesive which maintains a strong bond between a label and an object to which it is attached wherein the adhesive comprises a starch and includes a crosslinking catalyst to provide a quick bond (Column 1, lines 5-10 and Column 3, lines 36-51). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use as the water based adhesive in DE 1569789 as modified by Ito et al. and the admitted prior art the water based adhesive shown by Jannusch to strongly bond the label to the container.

Regarding claim 43, DE 1569789, Ito et al., and the admitted prior art as applied above teach all of the limitations in claim 43 except for a specific teaching of the hydrophilic layer including humectants. It is considered well taken in the art that a hydrophilic polymeric composition include humectants to control its viscosity, i.e. curl control and layflat properties, wherein Jannusch are exemplary of a hydrophilic composition including humectants to control the viscosity and bond strength of the composition (Column 3, lines 63-68 and Column 4, lines 5-14). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include in the hydrophilic layer taught by DE 1569789 as modified by Ito et al. and the admitted prior art humectants as shown by Jannusch to control the viscosity and bond strength of the composition.

6. Claims 39-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 1569789, Ito et al., and the admitted prior art as applied to claims 25-27, 30-36, 38, 45-47, 49, and 50 above, and further in view of Kelly (U.S. Patent 4,978,436).

DE 1569789, Ito et al., and the admitted prior art as applied above teach all of the limitations in claims 39-42 except for a specific teaching of a protective coating placed over the

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printed indicia on the outer layer, e.g. a bar code label. Kelly discloses a method wherein a protective coating layer including slip aids is placed on a substrate that is used as a label wherein the coating layer has slip properties that facilitates use of the coating layer on a high speed packaging apparatus (Column 1, lines 16-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include over the outer layer of the label taught by DE 1569789 as modified by Ito et al. and the admitted prior art the protective coating shown by Kelly to provide optimum high speed application of the label.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 25-36, 38-47, 49, and 50 have been considered but are moot in view of the new ground(s) of rejection.

The previous 35 U.S.C. 112 second paragraph rejections are withdrawn in view of applicants amendment and argument. It is noted the density claimed by applicants is considered a relative density as it is dimensionless, and in view of the lack of a reference material disclosed by the specification the reference material is considered water as is conventional making the label having a density of less than 0.9 as claimed a label having a specific gravity of less than 0.9.

Applicants petition to claim priority to U.S. Application Number 09/480,300 filed 1/10/00 was granted on 3/27/07. The examiner has reviewed the current application, the claimed subject matter, the subject matter disclosed in U.S. Application Number 09/480,300, and the filing date of priority U.S. Application Number 10/292,231, and considers the application



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entitled to the benefit of the filing date of U.S. Application Number 09/480,300 such that the previous rejections over Dronzek (WO 99/19412) which published 4/22/99 are withdrawn.

Applicants amendment and arguments have overcome the previous 35 U.S.C. 103 rejections over Amberg (U.S. Patent 4,018,640). It is noted a patch label is described by applicants specification at page 4, lines 21-15 as a label with less than 360 degree wrap.

The new limitations are addressed above.

### *Conclusion*

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John L. Goff** whose telephone number is **(571) 272-1216**. The examiner can normally be reached on M-F (7:15 AM - 3:45 PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



John L. Goff  
Primary Examiner  
Art Unit 1733